IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVSION

DELMA COWART, Individually and d/b/a STRUCTURES UNLIMITED,	)	
Plaintiff,	)	
v.	)	**CIVIL ACTION FILE NO. 4:17-cv-00142-LGW-GRS**
NAUTILUS INSURANCE COMPANY, and AUDREY MANES,	)	
Defendants.	)	

DEFENDANT NAUTILUS INSURANCE COMPANY'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW, Nautilus Insurance Company ("Defendant Nautilus"), a Defendant in the above-styled case, and files this, its Answer to Plaintiff's Complaint for Declaratory Judgment. Defendant Nautilus shows this Honorable Court the following:

FIRST DEFENSE

Plaintiff's Complaint fails to state a cause of action upon which relief can be granted

SECOND DEFENSE

Defendant Nautilus does not owe any coverage obligations nor any other obligation to Plaintiff.

THIRD DEFENSE

Defendant Nautilus does not owe any contractual obligations to Plaintiff under the circumstances.

FOURTH DEFENSE

Plaintiff has failed to mitigate damages as required by law.

FIFTH DEFENSE

Plaintiff's damages are limited to those remedies and those amounts provided for by statute and/or the applicable policy.

SIXTH DEFENSE

Plaintiff's Complaint fails to state a claim for punitive, actual, special, exemplary, liquidated and/or compensatory damages.

SEVENTH DEFENSE

Defendant Nautilus has acted in good faith in its dealings with Plaintiff.

EIGHTH DEFENSE

Plaintiff did not make a legally sufficient demand for a defense or indemnity more than sixty (60) days prior to filing this lawsuit, as required by O.C.G.A. § 33-

4-6 which is the exclusive avenue for recovering any extra-contractual damages, fees or expenses. Consequently, Plaintiff cannot recover for the "bad faith" alleged in the Complaint.

NINTH DEFENSE

Defendant Nautilus' decisions regarding insurance coverage are neither frivolous nor unfounded, but instead, were made in good faith such that damages under O.C.G.A. § 33-4-6 cannot be awarded.

TENTH DEFENSE

Some or all of Plaintiff's claims are barred by the doctrines of waiver, estoppel and/or failure to satisfy condition precedent.

ELEVENTH DEFENSE

Defendant Nautilus reserves the right to assert any additional affirmative defenses provided by Federal Rule of Civil Procedure 8 depending on any evidence discovered in pursuit of this litigation.

TWELVETH DEFENSE

For answers to the respective paragraphs of the Complaint, Defendant Nautilus shows as follows:

ANSWER TO: VENUE AND JURISDICTION

1.

Defendant Nautilus admits the allegations pled in the first sentence of paragraph 1 of the Complaint. Further responding, Defendant Nautilus states that it has removed the action to this Court where venue and jurisdiction now lie. Nautilus denies the remaining allegations pled in paragraph 1 of the Complaint.

2.

Defendant Nautilus shows that the allegations pled in paragraph 2 of the Complaint are not directed to this Defendant and need not answer, but to the extent they require an answer, Defendant Nautilus shows that it is without knowledge or information sufficient to admit or deny the truth of the allegations pled in said paragraph.

3.

Responding to the allegations pled in paragraph 3 of the Complaint, Defendant Nautilus states that it has removed the action to this Court where venue and jurisdiction now lie.

ANSWER TO: FACTS

4.

Defendant Nautilus states that no response is required to the allegations pled in paragraph 4 of the Complaint that set forth Plaintiff's cause of action. Responding further, Nautilus denies that Plaintiff is entitled to the relief requested.

5.

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 5 of the Complaint to the extent they are inconsistent therewith.

6.

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 6 of the Complaint to the extent they are inconsistent therewith.

7.

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 7 of the Complaint to the extent they are inconsistent therewith.

7(a).

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 7(a) of the Complaint to the extent they are inconsistent therewith.

7(b).

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 7(b) of the Complaint to the extent they are inconsistent therewith.

7(c).

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 7(c) of the Complaint to the extent they are inconsistent therewith.

7(d).

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 7(d) of the Complaint to the extent they are inconsistent therewith.

8.

Defendant Nautilus shows that the content of the referenced pleading speaks for itself, and denies the allegations pled in paragraph 8 of the Complaint to the extent they are inconsistent therewith.

9.

Defendant Nautilus admits the allegations pled in the first and second sentences of paragraph 9 of the Complaint. Further responding, Defendant Nautilus shows that the content of the referenced document speaks for itself, and denies the allegations pled in the third sentence of paragraph 9 of the Complaint to the extent they are inconsistent therewith. Responding to the allegations pled in the fourth sentence of paragraph 9 of the Complaint, Nautilus admits that it has determined that the allegations against Plaintiff in the underlying matter do not fall within the coverage provisions of the policy.

ANSWER TO: COUNT 1

DECLARATORY JUDGMENT

Defendant Nautilus incorporates by reference its defenses and responses to paragraphs 1 through 9 of the Complaint as though set forth specifically herein.

10.

Defendant Nautilus denies the allegations pled in paragraph 10 of the Complaint.

11.

Defendant Nautilus states that no response is required to the allegations pled in paragraph 11 of the Complaint that set forth Plaintiff's state of mind. Responding further, Defendant Nautilus denies that Plaintiff is entitled to the relief requested.

12.

Defendant Nautilus states that no response is required to the allegations pled in paragraph 12 of the Complaint that set forth Plaintiff's legal contentions. Responding further, Defendant Nautilus denies that Plaintiff is entitled to the relief requested.

ANSWER TO: COUNT 2

BREACH OF CONTRACT

Defendant Nautilus incorporates by reference its defenses and responses to paragraphs 1 through 12 of the Complaint as though set forth specifically herein.

13.

Defendant Nautilus denies the allegations pled in Paragraph No. 13 of the Complaint.

ANSWER TO: COUNT 3

BAD FAITH AND ATTORNEY'S FEES

Defendant Nautilus incorporates by reference its defenses and responses to paragraphs 1 through 13 of the Complaint as set forth specifically herein.

14.

Defendant Nautilus denies the allegations pled in paragraph 14 of the Complaint.

15.

Defendant Nautilus denies that Plaintiff is entitled to any of the relief set forth in her Prayer for Relief in Sections (a) - (e) of the Complaint.

16.

Defendant Nautilus expressly denies any allegation in the Complaint that it has not expressly admitted in this Answer.

WHEREFORE, Defendant Nautilus respectfully requests that this Court:

(1) Dismiss with prejudice Plaintiff's Complaint against Defendant Nautilus;

(2) Award Defendant Nautilus its reasonable attorney's fees, costs, and expenses pursuant to applicable law; and

(3) Award any and all other relief to Defendant Nautilus that this Court may deem necessary and proper.

DEMAND FOR TRIAL BY JURY

Defendant Nautilus demands a jury on all triable issues.

Respectfully submitted,

FREEMAN MATHIS & GARY, LLP

/s/ Philip W. Savrin
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **DEFENDANT NAUTILUS INSURANCE COMPANY'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DECLARATORY JUDGMENT** by depositing a true and correct copy thereof in the United States mail, postage prepaid, properly addressed upon the following:

Dwight T. Feemster
Duffy & Feemster, LLC
P.O. Box 10144
Savannah, GA 31412

This 31st day of July, 2017.

/s/ Philip W. Savrin
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